

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN KNIGHT, et. al.

Plaintiffs

v.

CHRISTMAS TREE SHOPS, INC.

Defendant

04-12698 JLT

PLAINTIFFS' MOTION TO COMPEL

On December 7, 2005 this Court ordered defendants to make Charles Bilezikian available for a deposition. Plaintiffs requested available dates for Mr. Bilezikian immediately and were informed that he was available only two days during the seven-week period remaining in discovery.

The two dates given, December 16 and 22, conflicted with Mr. Joseph's schedule. Mr. Joseph could not change those dates as he had a Court hearing in Los Angeles, California on December 16th, and had a long-standing commitment on another case for December 22, 2005.

Plaintiffs are willing to take the deposition of Mr. Bilezikian during the entire month of January, 2006. Defendants have refused stating that Mr. Bilezikian has previously scheduled business meetings during the entire month.

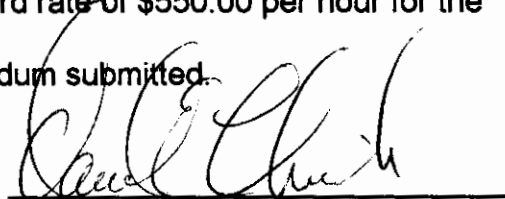
CERTIFICATE OF COUNSEL

Plaintiffs' counsel has conferred in good faith with opposing counsel.

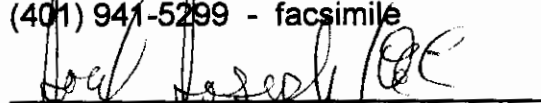
Before the discovery conference, counsel exchanged several emails attempting to resolve this matter. A discovery conference was held on December 27, 2005 at 11:40 a.m. Mr. Joseph spoke with Mr. Biagetti by telephone on that date for

approximately three minutes. Mr. Bilezikian is unwilling to change his business appointments to submit to a deposition, even though Mr. Joseph is willing to have the deposition at Mr. Bilezikian's office, so that Mr. Bilezikian's time will be minimized.

For all of these reasons, the motion should be granted. In addition, plaintiffs seek attorneys' fees in the amount of \$1,100.00, which includes two hours of Mr. Joseph's time at his standard rate of \$550.00 per hour for the preparation of the motion and memorandum submitted.



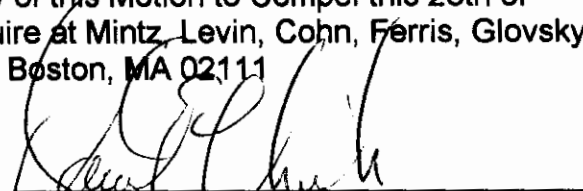
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that I have mailed a copy of this Motion to Compel this 28th of December, 2005 to Peter Biagetti, Esquire at Mintz, Levin, Cohn, Ferris, Glovsky and Popeo P.C., One Financial Center, Boston, MA 02111


DANIEL E. CHAIKA, ESQUIRE

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ORDER GRANTING PLAINTIFFS' MOTION TO COMPEL

On December 7, 2005 this Court ordered defendants to make Charles Bilezikian available for a deposition. Plaintiffs requested available dates for Mr. Bilezikian immediately and were informed that he was available only two days during the seven-week period remaining in discovery.

Defendants' refusal to provide any dates in January, 2006 is unreasonable. I therefore order defendants to submit to plaintiffs' counsel three dates in January when Mr. Bilezikian is available for a deposition.

In addition, because defendants' refusal was unreasonable and unjustified, I order that defendants pay \$1,100.00 to plaintiffs' counsel within ten days.

UNITED STATES DISTRICT JUDGE